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OFFICE OF PETITIONS

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CHICAGO IL 60603-3406

In re Application of :
Fitzgibbon et al. :
Application No. 09/915,080 : DECISION ON PETITION
Filed: July 25, 2001 : PURSUANT TO
Attorney Docket No.: : 37 C.F.R. § 1.137(B)
5569/69789 :
Title: BARRIER MOVEMENT :
SYSTEM INCLUDING A COMBINED :
KEYPAD AND VOICE RESPONSIVE :
TRANSMITTER :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed November 3, 2009, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 6, 2009, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on June 7, 2009. A notice of abandonment was mailed on September 24, 2009.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(m);

- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.¹

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on November 3, 2009 can be processed in due course.

Petitioner has also submitted a three-month extension of time. An extension of time under 37 C.F.R. § 1.136 must be filed prior to the expiration of the maximum extendable period for reply.² Accordingly, since the \$ 1,110 extension of time submitted with the petition on November 3, 2009 was filed subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to Petitioner's Deposit Account.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.** Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.³ All other inquiries

¹ See Rule 1.137(d).

² See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

³ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded

concerning this application should be directed to the Technology Center.

/Paul Shanowski/

Paul Shanowski

Senior Attorney

Office of Petitions

that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).